

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In re Applications of

RAYMOND W. CLANTON

LOREN F. SELENICK

For Construction Permit  
for a New FM Station  
El Rio, California

) RM Docket No. 93-87

) File No. BPH-911216MC

) File No. BPH-911216MD

RECEIVED

AUG 30 1993

To: Hon. John M. Frysiak  
Administrative Law Judge

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**PETITION FOR LEAVE TO AMEND**

Loren F. Selznick respectfully petitions for leave to amend her application to substitute a new financial certification. See attached Amendment. There is good cause for receipt of the Amendment. See generally Erwin O'Connor Broadcasting Co., 22 FCC 2d 140, 143 (Rev. Bd. 1970).

1. First, the amendment is required to be filed by Commission rules in order to report information about Selznick's financial qualifications that updates her pending application. See 47 CFR §1.65(a). Second, the petition is timely inasmuch as Selznick has reported the new financial information within 30 days of the change therein. See Attachment 1 at ¶¶4-8.

2. Third, acceptance of the amendment will not require new issues to be added. The evidence establishes that Ms. Selznick was financially qualified at the time of certification. Her December 16, 1991 Form 301 application estimated total construction/initial operation costs of \$360,070 and relied on Joseph P. Dailey to meet those costs. In a sworn Declaration, Selznick herein presents probative evidence from Mr. Dailey that

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*[Handwritten signature]*

establishes that (i) his net liquid assets exceeded \$360,070 at the time Ms. Selznick's 1991 application was filed<sup>1/</sup> and (ii) that he gave her "reasonable assurance" that he would provide the necessary funds. See Exhibit D at 2 and Exhibit A thereto. Indeed, Mr. Dailey states that he continues "to be able to provide the funds originally contemplated." Id., Exhibit D at ¶2.

3. Moreover, the evidence also establishes that Ms. Selznick is currently qualified, under her amended financial certification. For reasons that are thoroughly and rationally explained in her sworn Affidavit (Attachment 1 to the Amendment), Ms. Selznick now estimates the total costs of constructing and initially operating the FM station to be \$109,460. Id. at ¶¶4-5.<sup>2/</sup> To meet the estimated costs, Ms. Selznick relies on her own "net liquid assets" and "up to \$40,000" from Mr. Dailey. See Attachment 1 at ¶¶7-8. Ms. Selznick has net liquid assets of \$111,019 including real estate<sup>3/</sup> and \$85,958 excluding real estate.<sup>4/</sup> See "Liquidity Analysis," attached as Exhibit C to Attachment 1. Mr.

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<sup>1/</sup> Mr. Dailey's Financial Statement as of November 30, 1991, lists cash and cash equivalents exceeding \$400,000 -- more than the funds estimated by Ms. Selznick in her 1991 application to be needed for construction/initial operation. See Exhibit A to Dailey Declaration (Exhibit D to Attachment 1).

<sup>2/</sup> Ms. Selznick's revised cost estimate was prepared with the assistance of an experienced California broadcast consultant. See Attachment 1 at Exhibit A.

<sup>3/</sup> Copies of the appraisals for Ms. Selznick's two parcels of real estate will be exchanged tomorrow as part of the standardized document production.

<sup>4/</sup> Cash (\$32,281) plus retirement account (net \$24,368), plus tax refund receivable (\$16,809) plus inheritance receivable (\$12,500) equals \$85,958.

Dailey's current pledge of "up to \$40,000" is backed by current net liquid assets exceeding \$40,000. See Exhibit B to Exhibit D (Joseph P. Dailey Financial Statement as of August 27, 1993). Indeed, Mr. Dailey has available "cash" exceeding \$42,000. Id.

4. In sum, there is no question that Ms. Selznick is now financially qualified, as she has been since her application was filed in 1991. See Northampton Media Associates, 4 FCC Rcd 5517, 5518-19 (1989); Susan M. Mulkey, 4 FCC Rcd 5520, 5522 (1989); Armando Garcia, 3 FCC Rcd 1065, 1066 (Rev. Bd.), rev. denied, 3 FCC Rcd 4767 (1988). She has merely fine-tuned her financial certification, following extensive settlement negotiations, to better reflect the realities of her current proposal for a 1993 startup FM station at El Rio, CA, and following the sizeable increase in her own net worth.

5. Fourth, the acceptance of the Amendment will not disrupt the hearing, which is now scheduled to commence on October 19, 1993.

6. Fifth, a grant of the Petition will not unduly prejudice the other applicant, Raymond Clanton. Discovery has not yet commenced and acceptance of the Amendment will have no comparative impact.

7. Finally, Ms. Selznick will gain no undue advantage by acceptance of the Amendment. Indeed, grant of the Petition will not affect her comparative standing.

WHEREFORE, for good cause shown the Petition should be GRANTED and the Amendment should be ACCEPTED. See Northampton Media Associates, supra.

Respectfully submitted,

A handwritten signature in black ink, reading "Robert L. Thompson", with a stylized flourish extending to the right.

Robert Lewis Thompson  
Pepper & Corassini  
1776 K Street, N.W., #200  
Washington, DC 20554  
(202) 296-0600

Counsel for Loren F. Selznick

August 30, 1993

AMENDMENT

My application for a construction permit for a new FM broadcast station to operate at El Rio California, File No. BPH-911216MD, is hereby amended with respect to the financial qualifications as follows:

1. The total funds I estimate are necessary to construct and operate the requested facility for three months without revenue, pursuant to FCC 301, Section III, question 2, are \$109,460.

2. I am relying on myself for \$110,000 and Joseph P. Dailey for up to \$40,000.

August 28, 1993



Loren F. Selznick

Individual Applicant



Before the

**FEDERAL COMMUNICATIONS COMMISSION**

In re Applications of ) MM DOCKET NO. 93-87  
 )  
RAYMOND W. CLANTON ) File No. BPH-911216MC  
 )  
LOREN F. SELZNICK ) File No. BPH-911216MD  
 )  
 )  
For Construction Permit for a )  
New FM Station on channel 279A )  
in El Rio, California )  
  
To: Honorable John M. Frysiak  
Administrative Law Judge

STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NEW YORK)

LOREN F. SELZNICK, being duly sworn, deposes and says:

1. I am an applicant for a construction permit for a new FM station on channel 279A in El Rio, California. I submit this affidavit in support of my amendment to the financial portion of my application.

2. In my original filing, I stated that the funds required to construct the station and operate it without revenue for three months would be \$360,070. I also stated that Joseph P. Dailey would supply the necessary funds. My amendment will change the amount necessary as well as the source of the funds.

3. When I calculated the \$360,070 figure, I contemplated building a large facility that would accommodate 24-hour live on-air service, all new equipment and the operating expenses necessary to support such an approach.

4. Approximately two weeks before settlement negotiations broke down between the parties on or about August 9, 1993,

I conducted a new viability study on the El Rio market. I spoke at length to four brokers and consultants operating in California concerning the valuation of a new FM station in the El Rio market as well as the best approaches for getting such a station on the air. As a result of these conversations, I became convinced that my former approach of buying all new equipment and operating live on a 24-hour basis was not the most viable approach for a start-up operation in the El Rio market. The best approach, according to the consultants is to begin with satellite music programming and live local news coverage and weaning the station gradually from the satellite service as the station begins to accumulate an advertiser base. With the satellite programming approach, construction and equipment costs and the operating expenses for the first three months will be substantially lower.

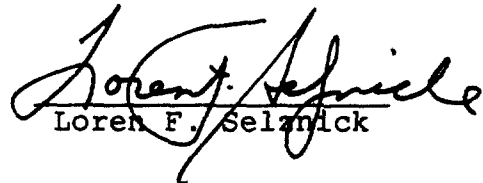
5. In addition, Miller & Associates, a consulting firm which has constructed several radio stations in California within the past few years, advised me that a great deal of the equipment that I needed could be purchased used in good condition--again substantially lowering the construction costs. Annexed to this affidavit as Exhibit A is a letter from Brett Miller of Miller & Associates which outlines the necessary expenditures for equipment and construction. The total necessary for construction is \$79,460. Based upon my conversations with Mr. Miller, the operating expenses for the first three months will be approximately \$10,000 per month or a total of \$30,000. Accordingly, the total necessary is \$109,460.

6. An additional reason I prefer this approach is that my need to borrow money to finance construction and early

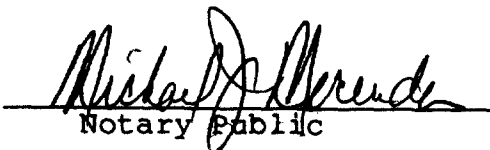
operations will be greatly reduced. The lower the amount of money borrowed, of course, the lower the debt service that the station will need to support.

7. In the interim between the time I filed my application and the time of this affidavit my assets have increased substantially due to personal savings and two gifts from family members. Annexed to this affidavit as Exhibit B is my personal financial statement showing that my net worth is \$147,667. Also annexed as Exhibit C is a liquidity analysis showing that my applicable net worth for this project is \$111,210.

8. When settlement negotiations broke down, I spoke with Joseph P. Dailey to discuss the new lower cost approach and my desire to make the greatest personal contribution I could. Mr. Dailey and I agreed that I would provide as much of the funding as I could and that he would provide the difference with a loan of up to \$40,000. Annexed to this affidavit as Exhibit D<sup>(4)</sup> is a supporting declaration by Mr. Dailey, dated August 27, 1993.

  
Loren F. Selznick

Sworn to before me on this  
28th day of August, 1993.

  
Notary Public

MICHAEL J. MERENDA  
Notary Public, State of New York  
No. 31-460548  
Qualified in New York County  
Commission Expires June 30, 1994



# MILLER & ASSOCIATES

Consultants To The Communications Industries

August 2, 1993

Ms. Loren F. Selznick, Esq.  
Reed, Abbott & Morgan  
153 East 53rd Street  
New York, New York 10022

Dear Ms. Selznick:

Pursuant to our recent conversation, I am forwarding for your review what my associates and I believe to be the best approach for you to take in constructing your station in Ventura County. This approach takes into consideration the need to have good, reliable equipment with which to transmit a good signal throughout your coverage area, while at the same time the necessity of financial survival during those critical start up months.

As you know, this approach has proven successful for us several times over the past few years, and is absolutely necessary in light of the current downturn in the overall economy and the economy of California specifically.

Bottom line: if you overspend in initial construction, you will risk going out of business before you can do any good in the community.

Most of these items and prices are current from our suppliers and can be substituted or changed as better opportunities come up. Between now and actual construction, there may be several changes again.

I spoke today with the representative of the company which controls your tower site. He confirmed with me that you will have to construct your own transmitter building, that there is electricity to the site, and there is one FM user, one TV user, and one paging user already at the site. Also, he confirmed that the site will accomodate either the 65' utility pole your engineer specified or an 80' steel, self-supporting tower. Because of the source we have for towers, I would recommend that you use the latter, inasmuch as the antenna mounting hardware, etc., are made for attaching to towers, as opposed as wooden poles. However, the cost are about the same.

Let me know if you have any questions regarding the following.

1.	80' tower plus labor and concrete:	\$ 4,500
2.	Transmitter building:	5,200
3.	Transmitter - 1kw Henry (Hall Electronics):	5,500
4.	30 watt Energy-Onyx exciter (Hall Electronics):	2,595
5.	2-Bay antenna (Hall Electronics):	1,875
	200', 7/8" transmission line:	870
	Hoisting grip:	33
	Connectors:	150
	Grounding kits, 2 @ \$23:	46
	Tie wrap (50 pcs):	26
	Adaptor (1 5/8" to 7/8"):	105
6.	Remote Control (Sine Systems):	
	Basic unit	1,300
	EBS unit	760
7.	Modulation monitor (Innovonics):	2,200
8.	STL: STL-8 Marti (Hall Electronics):	3,300
	2 ea. Scala antennae:	600
9.	Stereo generation/processing (Hall Electronics)	
	AFEX Compellor/Dominator:	2,300
	Innovonics stereo generator:	1,100
10.	Satellite Dish (local):	1,500
11.	Satellite receiver (depends on network):	1,500
12.	Satellite interface and production control (The Managements DJ-Lite and PC-Pro):	10,000
13.	Studio equipment and supplies:	5,000
14.	Furniture & fixtures:	10,000
15.	Power generator:	4,000
16.	Labor:	5,000
17.	Taxes and shipping:	5,000
		-----
	Total:	\$ 79,460

As you know, these figures represent an all-cash approach to your construction. In many cases, leases and financing can be arranged which would reduce your actual out-of-pocket cash expenditures. Also, as the time draws near to actually start buying certain items such as furniture and fixtures, and studio equipment, we can do some shopping around and look for bargains as well.

The rental situation in Ventura County is such that rates are the lowest they have been in a long time and you can also look for tenant improvements to be included in the rent base, plus in some cases, up to six months of free rent while the improvements are being made, and while you are completing your installation of office/studio equipment.

Also, as I indicated, if you are interested in using our company on a contractor basis to start pre-selling your station, we believe that you can actually sign-on with \$5,000 to \$7,500 of minimum business on the books. This will have a beneficial impact on your need for cash infusions during the first three months or so of start up.

Let us know how you are progressing and good luck!

Regards,



Brett E. Miller



**Loren F. Selznick**  
**Financial Statement**  
**August 28, 1993**

**Personal Information**

Social Security..... 060-54-8441  
 Address..... 67 East 11th Street Apartment 401  
                                     New York, New York 10003  
 Telephone..... (212) 982-7634 (Home)  
                                     (212) 888-0800 (Office)  
 Occupation..... Attorney  
                                     Breed, Abbott & Morgan  
                                     Citicorp Center  
                                     153 East 53rd Street  
                                     New York, New York 10022

**Assets**

Cash	\$32,281
Retirement Accounts	\$45,125
Income Tax Refund Receivable	\$16,809
Inheritance Receivable	\$12,500
99 Bank Street Apartment 3L Cooperative Stock (Current Appraised Value)	\$86,000
67 East 11th Street Apartment 401 Cooperative Stock (Current Appraised Value)	\$114,000
Art Collection	\$1,200
Personal Property	\$9,000
Automobile.....	<u>\$5,500</u>
<b>Total.....</b>	<b>\$322,415</b>

**Liabilities**

Mortgage Debt (99 Bank Street).....	\$64,000
Mortgage Debt (67 East 11th Street).....	\$110,222
Bank Loans.....	\$0
Notes Payable.....	\$0
Income Taxes Payable.....	\$0
Payable - Other (Breed, Abbott & Morgan Personal Expenses).....	<u>\$717</u>
<b>Total.....</b>	<b>\$174,939</b>

<b>Net Worth.....</b>	<b>\$147,476</b>
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**Loren F. Selznick**  
**Liquidity Analysis**  
**August 28, 1993**

**Personal Information**

Social Security..... 060-54-8441  
 Address..... 67 East 11th Street Apartment 401  
                                     New York, New York 10003  
 Telephone..... (212) 982-7634 (Home)  
                                     (212) 888-0800 (Office)  
 Occupation..... Attorney  
                                     Breed, Abbott & Morgan  
                                     Citicorp Center  
                                     153 East 53rd Street  
                                     New York, New York 10022

**Assets**

Cash	\$32,281
Retirement Accounts (Minus 20% Penalty and Minus 32.5% for Taxes)	\$24,368
Income Tax Refund Receivable	\$16,809
Inheritance Receivable	\$12,500
99 Bank Street Apartment 3L Cooperative Stock (Current Appraised Value)	\$86,000
67 East 11th Street Apartment 401 Cooperative Stock (Current Appraised Value)	\$114,000
<b>Total.....</b>	<b>\$285,958</b>

**Liabilities**

Mortgage Debt (99 Bank Street).....	\$64,000
Mortgage Debt (67 East 11th Street).....	\$110,222
Bank Loans.....	\$0
Notes Payable.....	\$0
Income Taxes Payable.....	\$0
Payable - Other (Breed, Abbott & Morgan Personal Expenses).....	\$717
<b>Total.....</b>	<b>\$174,939</b>

<b>Applicable Net Worth.....</b>	<b>\$111,019</b>
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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**

Washington, D.C.

In re Applications of	)	MM DOCKET NO. 93-87
	)	
RAYMOND W. CLANTON	)	File No. BPH-911216MC
	)	
LOREN F. SELZNICK	)	File No. BPH-911216MD
	)	
	)	
For Construction Permit for a	)	
New FM Station on channel 279A	)	
in El Rio, California	)	

To: Honorable John M. Frysiak  
Administrative Law Judge

DECLARATION

1. My name is Joseph P. Dailey and I reside at 565 Peralta Hills Drive, Anaheim, California 92807. I make this declaration in support of the amendment to the application of Loren F. Selznick for a new FM station in El Rio, California concerning financial qualifications.

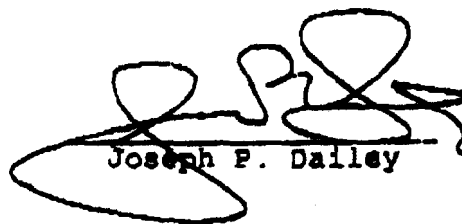
2. At the time Ms Selznick applied for the construction permit in December 1991, I gave her reasonable assurance that I would provide the funds necessary to construct the station and operate it for three months without revenue. At the time, we contemplated that the total cost would be \$360,070. Annexed to this declaration as Exhibit A is my personal financial statement as of November 30, 1991 with which Ms Selznick was familiar. Also annexed as Exhibit B is my personal financial statement as of August 27, 1993. I was and continue to be able to provide the funds originally contemplated.

3. In late July, 1993, Ms Selznick and I had a telephone conversation in which Ms Selznick told me that she had spoken with several brokers and consultants. She reported to me that she was advised that a much more streamlined approach to both construction and operations would be advisable for a start-up radio station. Specifically, Ms Selznick informed me that she was advised that the funds necessary would be less than \$110,000. With the substantially lower amount in mind, Ms Selznick also advised me that she thought she would be able to provide almost all of the funding herself. We agreed that Ms Selznick would provide as much of the funding as she could and that I would make up the difference with a loan of up to \$40,000.

4. If my funding is required, I am willing to provide a loan of up to \$40,000 for a term of 5 years at an interest rate of 12% with payments to commence one year after completion of construction of the radio station.

I swear under penalty of perjury that the foregoing is true and complete.

August 27, 1993



Joseph P. Dalley

**Joseph P. Dailey**  
**Financial Statement**  
**November 30, 1991**

**Personal Information**

Social Security..... 179-84-8445  
Address..... 565 Peralta Hills Drive  
Anaheim, California 92807  
Telephone..... (714) 282-1170 (Home)  
(714) 640-5426 (Office)  
Occupations..... Attorney  
President  
RunTime Technologies, L.P.  
610 Newport Center Drive, Suite 600  
Newport Beach, California 92660

**Assets**

Peralta Hills Home (Appraised Value).....	\$1,600,000
Cash .....	\$218,000
Partnership Profits .....	\$230,864
Salary Receivable.....	\$50,000
Partnership Inventory Interest .....	\$150,368
RunTime Technologies Investment At Cost.....	\$420,000
Personal Property.....	\$250,000
Automobiles.....	<u>\$20,000</u>
<b>Total.....</b>	<b>\$2,939,232</b>

**Liabilities**

Mortgage Debt.....	\$975,000
Bank Loans.....	\$44,970
Notes Payable.....	\$0
Income Taxes Payable.....	\$0
Charge Accounts Payable.....	<u>\$0</u>
<b>Total.....</b>	<b>\$1,019,970</b>

**Net Worth..... \$1,919,262**

**Joseph P. Dailey**  
**Financial Statement**  
**August 27, 1993**

**Personal Information**

Social Security..... 179-84-8445  
Address..... 565 Peralta Hills Drive  
Anaheim, California 92807  
Telephone..... (714) 282-1170 (Home)  
(714) 640-5426 (Office)  
Occupations..... Attorney  
President  
RunTime Technologies, L.P.  
610 Newport Center Drive, Suite 600  
Newport Beach, California 92660

**Assets**

Peralta Hills Home (Appraised Value).....	\$1,600,000
Cash .....	\$42,800
Partnership Profits.....	\$124,627
Salary Receivable.....	\$216,667
Notes Receivable.....	\$30,000
Partnership Inventory Interest.....	\$90,220
RunTime Technologies Investment At Cost.....	\$780,000
Personal Property.....	\$250,000
Automobiles.....	<u>\$10,000</u>
<b>Total.....</b>	<b>\$3,144,314</b>

**Liabilities**

Mortgage Debt.....	\$950,000
Bank Loans.....	\$68,921
Notes Payable.....	\$0
Income Taxes Payable.....	\$0
Charge Accounts Payable.....	<u>\$0</u>
<b>Total.....</b>	<b>\$1,018,921</b>


**Net Worth.....** **\$2,125,392**

**CERTIFICATE OF SERVICE**

I, Susan A. Burk, a secretary with the law firm of Pepper & Corazzini, do hereby certify that a true and correct copy of the foregoing Petition for Leave to Amend was served by U.S. mail, first-class, postage prepaid on this 30th day of August, 1993, on the following individuals:

- \* Honorable John M. Frysiak  
Room 223  
Federal Communications Commission  
2000 L Street, N.W.  
Washington, DC 20554
- \* Paulette Laden, Esq.  
Hearing Branch -- Room 7212  
Federal Communications Commission  
2025 M Street, N.W.  
Washington, DC 20554

Jerrold D. Miller, Esq.  
Miller & Miller  
1990 M Street, N.W., Suite 760  
Washington, DC 20036

  
\_\_\_\_\_  
Susan A. Burk

\* - VIA HAND DELIVERY